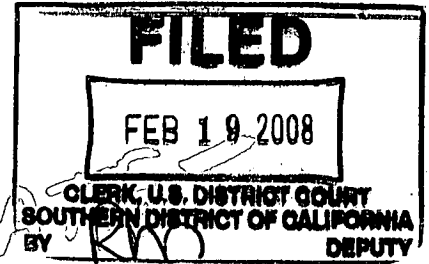


UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK

2500 Tulare Street
Fresno, CA 93721



DUPLICATE
COPY

Clerk, USDC Southern District of CA
880 Front Street
San Diego, CA 92101

RE: ERIC WILTON BURTON vs. DIRECTOR OF THE CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
USDC No.: 1:08-CV-00190-OWW-WMW

Dear Clerk,

Pursuant to the order transferring the above captioned case to your court, dated
February 13, 2008, transmitted herewith are the following documents.

Electronic Documents: 1 to 4

Documents maintained electronically by the district court are accessible through
PACER for the Eastern District of California at <https://ecf.caed.uscourts.gov>.

Please acknowledge receipt on the extra copy of this letter and return to the Clerk's Office.

Very truly yours,

February 13, 2008

/s/ C. Esteves

Deputy Clerk

RECEIVED BY:

R. Mullen

Please Print Name

DATE RECEIVED:

2-19-2008

NEW CASE
NUMBER:

'08 CV 0325 LAB POR

*2/11/2008
Voluminous documents
not to be filed but
forwarded w/petition
to Southern
District
SM*

1
2
3 I hereby attest and certify on 2-13-08
4 that the foregoing document is a full, true
5 and correct copy of the original on file in my
6 office and in my legal custody.

VICTORIA C. MINOR
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

By [Signature] Deputy

COPY

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10
11 ERIC WILTON BURTON

1:08-cv-0190 OWW WMW (HC)

12 Petitioner,

13 vs.

ORDER OF TRANSFER

14 DIRECTOR OF THE CALIFORNIA
15 DEPARTMENT OF CORRECTIONS
16 AND REHABILITATION,
17 Respondent.

18 _____/
19 Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28
20 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

21 The federal venue statute requires that a civil action, other than one based on diversity
22 jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants
23 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
24 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is
25 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which
26 the action may otherwise be brought." 28 U.S.C. § 1391(b).

27 In this case, the petitioner is challenging a conviction from San Diego County, which is in the
28 Southern District of California. Therefore, the petition should have been filed in the United States

1 District Court for the Southern District of California. In the interest of justice, a federal court may
2 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
3 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

4 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
5 District Court for the Southern District of California.

6
7 IT IS SO ORDERED.

8 Dated: February 11, 2008

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CLOSED, HABEAS, IFP_PENDING

COPY

**U.S. District Court
Eastern District of California - Live System (Fresno)
CIVIL DOCKET FOR CASE #: 1:08-cv-00190-OWW-WMW
Internal Use Only**

(HC) Burton v. Director of the CA Dept. of
Corrections & Rehabilitation
Assigned to: Judge Oliver W. Wanger
Referred to: Magistrate Judge William M.
Wunderlich.
Cause: 28:2254 Petition for Writ of Habeas
Corpus (State)

Date Filed: 02/06/2008
Date Terminated: 02/13/2008
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner

Eric Wilton Burton

represented by **Eric Wilton Burton**

I hereby attest and certify on 2-13-08
that the foregoing document is a full, true
and correct copy of the original on file in my
office and in my legal custody.

VICTORIA C. MINOR
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

By *[Signature]* Deputy

F-02720
California State Prison Corcoran

P.O. Box 5246
Corcoran, CA 93212
PRO SE

Respondent

**Director of the California
Department of Corrections
and Rehabilitation**

Date Filed	#	Docket Text
02/06/2008	<u>1</u>	(2254) PETITION for WRIT of HABEAS CORPUS, by Eric Wilton Burton.(Hellings, J) (Entered: 02/11/2008)
02/06/2008	<u>2</u>	MOTION/Application to PROCEED IN FORMA PAUPERIS by Eric Wilton Burton. (Hellings, J) (Entered: 02/11/2008)
02/06/2008	<u>3</u>	MOTION for APPOINTMENT of COUNSEL by Eric Wilton Burton. (Hellings, J) (Entered: 02/11/2008)

02/06/2008	● <u>1</u>	(2254) PETITION for WRIT of HABEAS CORPUS, by Eric Wilton Burton.(Hellings, J) (Entered: 02/11/2008)
02/06/2008	● <u>2</u>	MOTION/Application to PROCEED IN FORMA PAUPERIS by Eric Wilton Burton. (Hellings, J) (Entered: 02/11/2008)
02/06/2008	● <u>3</u>	MOTION for APPOINTMENT of COUNSEL by Eric Wilton Burton. (Hellings, J) (Entered: 02/11/2008)
02/11/2008	●	(Court only) ***STAFF NOTE: Case screened. Order to Transfer to Southern District of CA submitted to WMW/lvm. {Per C. Dornay, voluminous documents NOT to be filed, but forwarded w/Petition to Southern District} (Hellings, J) (Entered: 02/11/2008)
02/13/2008	● <u>4</u>	ORDER, CASE TRANSFERRED to District of CA/Southern signed by Magistrate Judge William M. Wunderlich on 2/11/2008. Certified copy of transfer order, and docket sheet sent. CASE CLOSED (Esteves, C) (Entered: 02/13/2008)
02/13/2008	●	SERVICE BY MAIL: <u>4</u> Order, case transferred Out to Southern District served on Eric Wilton Burton. (Esteves, C) (Entered: 02/13/2008)
02/13/2008	● <u>5</u>	TRANSMITTAL of DOCUMENTS on *2/13/2008* to * Clerk, USDC Southern District of CA* *880 Front Street* *San Diego, CA 92101*. ** *Electronic Documents: 1 to 4. *. (Esteves, C) (Entered: 02/13/2008)

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District
Name <u>BURTON, ERIC WILTON IN PROPER</u>	Prisoner No. <u>F02720</u>	Case No. <u>5152584/5153203</u>
Place of Confinement <u>C SATF/SP-CI-1324, A.D. BOX 5746, CORCORAN, CALIFORNIA, 93212</u>		
FILED		
Name of Petitioner (include name under which convicted) <u>ERIC WILTON BURTON</u>		Name of Respondent (authorized person having custody of petitioner) <u>DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION</u>
Clerk, U.S. District Court Eastern District of California BY <u>[Signature]</u> DEPUTY CLERK		
The Attorney General of the State of: <u>CALIFORNIA</u>		1:08 CV 000190 OWN WMM HC

PETITION
BASED ON MEMORANDUM AND POINTS OF AUTHORITY (ATTACHED)

- Name and location of court which entered the judgment of conviction under attack SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO, EAST COUNTY DIVISION, 250 E. MAIN ST. EL CAJON, CA. 92020
- Date of judgment of conviction SENTENCED ON 21 OCT 05
- Length of sentence LIFE + 25 YEARS TO LIFE CONSECUTIVELY
- Nature of offense involved (all counts) (ALLEGED) PC § 604/187, SUBD (A) (189) DISCHARGING A FIREARM FROM A MOTOR VEHICLE § 12034, SUBD. (C) (ALLEGED) ASSAULT WITH A SEMI-AUTOMATIC FIREARM, (§ 245, SUBD (B) PLUS UNCONSTITUTIONAL ENHANCEMENT ALLEGATIONS 12053(D) SENTENCE AND COLLECTIVE PENALTY FOR A CRIME NOT CHARGED NOR PROVEN PROSECUTION FAILED TO GIVE DEFENDANT NOTICE.
- What was your plea? (Check one)

(a) Not guilty	<input checked="" type="checkbox"/>
(b) Guilty	<input type="checkbox"/>
(c) Nolo contendere	<input type="checkbox"/>

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

- If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury	<input checked="" type="checkbox"/>
(b) Judge only	<input type="checkbox"/>
- Did you testify at the trial?
Yes ☐ No ☒
- Did you appeal from the judgment of conviction?
Yes ☒ No ☐

9. If you did appeal, answer the following:

- (a) Name of court COURT OF APPEAL, FOURTH APPELLATE DIST. DIV I DIRECT REVIEW/H.C.
- (b) Result AFFIRMED, COURT ERRED ON ALL GROUNDS RAISED ON DIRECT APPEAL AND HABEAS CORPUS
- (c) Date of result and citation, if known APRIL, 25, 2007
- (d) Grounds raised ON DIRECT APPEAL- FARETTA³, Wheeler/Batson error, Failure to
give jury instructions, sentence for a crime uncharged, ect.
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:
- (1) Name of court SUPREME COURT OF CA. HABEAS CORPUS REVIEW
- (2) Result DENIED COURT ERRED ON ALL GROUNDS RAISED BY PETITIONER
Appeals counsel misstated the facts and had omissions of facts
- (3) Date of result and citation, if known 7-11-07
- (4) Grounds raised 14th U.S. Const. Amend. Due Process violations
unlawful seizure of person, violation of EDWARDS SUPRA
Batson/error, sentence for a crime not charged or proven.
- (f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:
- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following

information:

- (a) (1) Name of court California Supreme Court
- (2) Nature of proceeding petition for rehearing of H.C.
- (3) Grounds raised DUE PROCESS VIOLATIONS 14TH AMEND., Batson error,
denial of 6th amend. right to self representation,

ABSENCE OF COUNSEL, FAILURE OF PROSECUTION TO DISCLOSE MATERIAL
EXCULPATORY EVIDENCE IN VIOLATION OF FEDERALLY GUARANTEED U.S. 5TH AND
14TH AMENDMENTS DUE PROCESS AND EQUAL PROTECTION CLAUSES, SENTENCE FOR UNCHARGED CRIME

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result REVIEW DENIED 6-20-07

(6) Date of result 7-18-07?

(b) As to any second petition, application or motion give the same information:

(1) Name of court SUPREME COURT OF CALIFORNIA

(2) Nature of proceeding PETITION FOR REHEARING EN BANC

(3) Grounds raised 14TH U.S. CONST. DUE PROCESS VIOLATIONS, MULTIPLE GROUNDS, AND
FOR PROSECUTIONS VIOLATION OF 5TH AND 14TH DUE PROCESS AND EQUAL PROTECTION
CLAUSES IN FAILURE TO DISCLOSE MATERIAL EXCULPATORY EVIDENCE AND
SUPPRESSION OF FAVORABLE EVIDENCE, DELAY IN ACCUSATION, CHANGING CHARGES
WITHOUT NOTICE TO DEFENDANT TO GAIN UNFAIR TACTICAL ADVANTAGE, DAY OF TRIAL ASSIGNMENT

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result REVIEW DENIED BY CLERK OF COURT - ERROR - UNCONSTITUTIONAL

(6) Date of result 18 JULY 07

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐

(2) Second petition, Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

AO 241 (Rev. 5/85)

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

- A. Ground one: PREJUDICIAL AND ERRONEOUS DENIAL BY THE TRIAL COURT OF PETITIONER'S FEDERALLY GUARANTEED RIGHT TO SELF REPRESENTATION IN VIOLATION OF U.S. CONST 6TH AND 14TH AMENDMENT DUE PROCESS AND EQUAL PROTECTION CLAUSES FAILURE TO RULE.
Supporting FACTS (state briefly without citing cases or law) ON 16 MARCH 05, AFTER BEING DETERMINED TO BE LAWFULLY COMPETENT BY THE HON. JUDGE PRECKEL 11-05-04, PETITIONER INVOKED HIS RIGHT TO SELF REPRESENTATION PER HIS U.S. 6TH AMENDMENT, AND ALSO REQUESTED A MARSDEN MOTION, KNOWINGLY AND INTELLIGENTLY, AS THE EXCERPTS IN THE ATTACHED EXHIBIT A WILL SHOW, THE COURT RECOGNIZED PETITIONER'S TWO PROFFERED, FUNDAMENTALLY SEPARATE MOTIONS, DENIED PETITIONER'S MARSDEN MOTION, FAILED TO RULE ON PETITIONER'S FIRST MOTION PER HIS 6TH AMENDMENT U.S. CONST. RIGHT. COURT ABUSED ITS DISCRETION. COUNSEL ON DIRECT APPEAL MISTATED THE FACTS CONCERNING, AND OMITTED THE FACT THAT PETITIONER MADE HIS FIRST MOTION FOR SELF REPRESENTATION ON 16 MARCH 05, NOT 24 MARCH 05.
- B. Ground two: FAILURE TO RULE ON PETITIONER'S TIMELY FILED FARETTA PRO SE MOTION, PREJUDICALLY AND ERRONEOUSLY IN VIOLATION OF 6TH AND 14TH DUE PROCESS + EQUAL PROTECTION CLAUSES.
Supporting FACTS (state briefly without citing cases or law) THE TRIAL COURT OVER REACHING, PLACED PETITIONER ON A 1368 HOLD, AND FAILED TO GIVE THE 5TH AMENDMENT REQUIREMENTS THAT ESTELLE REQUIRE, AFTER PETITIONER HAD ALREADY BEEN DEEMED LAWFULLY COMPETENT ON 11-05-04 BY ANOTHER JUDGE, TRIAL JUDGE HON. HALGREN FORCED COUNSEL ON UNWILLING DEFENDANT. ON OR ABOUT 07 JULY 05 PETITIONER MAILED A FILED FARETTA PRO SE MOTION TO THE COURT, PRETRIAL MOTION INCLUDING FOR 14TH U.S. CONST. AMENDMENT DUE PROCESS VIOLATION. ON 19 JULY 05, DEFENSE COUNSEL MADE A MOTION TO HAVE PETITIONER'S MOTIONS FILED BE ACCEPTED, THE JURORS HAD NOT BEEN SWORN UNTIL 20 JULY 05. PETITIONER'S MOTION BY PER THE REASONING OF FARETTA SHOULD HAVE BEEN INQUIRED INTO. SEE ATTACHMENTS AND EXCERPTS IN SUPPORT OF GROUNDS

AO 241 (Rev. 5/85)

- C. Ground three: U.S. CONST FEDERALLY GUARANTEED 14TH AMENDMENT, AND ALSO 5TH U.S. CONST AMENDMENT VIOLATIONS OF BOTH DUE PROCESS AND EQUAL PROTECTION CLAUSES FOR PROSECUTION'S FAILURE TO DISCLOSE MATERIAL EXCULATORY EVIDENCE AND SUPPRESSION OF FAVORABLE EVIDENCE TO DEFENSE.

Supporting FACTS (state briefly without citing cases or law) ON OR ABOUT 30 JULY 04, DEFENSE COUNSEL

PLUMMER FILED AND SERVED A MOTION FOR DISCOVERY UNDER BRADY V. MARYLAND, THAT ACCORDING TO COUNSEL ADAIR
ON THE ATTACHED EXCERPTS, PROSECUTION FAILED TO RESPOND, PROSECUTION AND POLICE DESTROYED THE
ALLEGED 911 CALL TO DISPATCHER BY ALLEGED DEFENDANT THAT WAS PROVE OF PETITIONER'S INNOCENCE,
PROSECUTION DEPORTED THE TRIAL JUDGE, HON LAURA HALGREN, AND IRRATIONAL, PREJUDICIAL CONFLICTING
TRIP OF FACT, AND HER BALIFF, ON OR ABOUT 23 FEB 04, THE ALLEGED VICTIM MR. THOMAS WAS SERVED "TRO"
ON OR ABOUT 23 FEB 04, BY BALIFF, IN JUDGE HALGREN'S PRESENCE, TRIAL JUDGE ON STIPULATED GENUINE COURT BUSINESS
RECORDS SIGNED OFF ON THE TRO, AND WAS WITNESS TO FACT THAT MR. THOMAS WAS STALKING PETITIONER, SEE ATTACHMENTS IN SUPPORT,

- D. Ground four: VIOLATION OF 6TH AND 14TH U.S. CONST AMENDMENT DUE PROCESS AND EQUAL PROTECTION CLAUSES OF PETITIONER

FEDERALLY GUARANTEED RIGHT TO A FAIR AND IMPARTIAL TRIAL WITH A JURY OF HIS PEERS, BY PROSECUTION'S WHEELER/BATSON ERROR
BY A RACIALLY MOTIVATED PEREMPTORY CHALLENGE OF THE SOLE AFRICAN AMERICAN POTENTIAL JUROR, PETITIONER IS AFRICAN AMERICAN

Supporting FACTS (state briefly without citing cases or law) DURING VOIR DOIR, PROSECUTOR MR. TROCHA,

SINGLED OUT AND BADGERED THE SOLE AFRICAN AMERICAN JUROR AND DISCRIMINATORILY RAISED A BIASED
PEREMPTORY CHALLENGE TO EXCLUDE THIS OTHERWISE QUALIFIED POTENTIAL JURY, PROSECUTOR DIDN'T LIST
HIS REASONS PER SE, BUT STATED 'SHE WOULDN'T MAKE A GOOD JUROR IN GENERAL, PROSECUTION CREATE
WHEELER/BATSON ERROR, TRIAL JUDGE ERRORED IN FAILING TO DISCHARGE PANEL AND START PROCEEDINGS
OVER, PETITIONER WAS PREJUDICED BY THIS ERROR AND WAS DENIED HIS FEDERALLY GUARANTEED
RIGHT TO TRIAL OF JURY OF HIS PEERS, UNCONSTITUTIONALLY CONDUCTED BY AN ALL WHITE JURY, SEE ATTACHMENTS
AND EXHIBIT C

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing PLUMMER

(b) At arraignment and plea ADAIR ?

(c) Actual ADAIK

(d) At sentencing ADAIR

(e) On appeal SYLVIA KOBYN

(f) In any post-conviction proceeding IN PROPER

(g) On appeal from any adverse ruling in a post-conviction proceeding

IN PROPER

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence: 21 OCTOS LIFE + 25 YEARS TO LIFE PLUS RESTITUTION
FOR AN UNCHARGED AND UNPROVEN CRIME, WITHOUT PRIOR NOTICE OF A KATH MINEY (ALLEGEDLY)

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on _____

2-4-08
(date)

Eric W. Burton #F00720
Signature of Petitioner IN PROPER

E. W. Burton # F02720
(Name of Person Completing Service)

MR. E.W. BURTON #F02720 IN PROPER
P.O. BOX 5246 - CSATF/SP-C1-132L
CORCORAN, CA 93212

UNITED STATES DISTRICT COURT
EASTERN CALIFORNIA DISTRICT

E.W. BURTON #F02720

Plaintiff or Petitioner

v.

Case Number: 5152584

DIRECTOR DEPT OF CORRECTIONS AND REHABILITATION, CALIFORNIA

Defendant or Respondent

STATE JURISDICTION

PROOF OF SERVICE

I hereby certify that on 2-04-08, I served a copy of the
attached RT. EXCERPTS TO FED H.C. PETITION

by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
envelope in the United States Mail at P.O. BOX 5246 - CSATF/SP-C1-132L, CORCORAN,
CA. 93212

(List Name and Address of Each
Defendant or Attorney Served)

I declare under penalty of perjury that the foregoing is true and correct.

E.W. Burton #F02720
(Name of Person Completing Service)

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of filing for civil cases. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Eric Wilton Burton

DEFENDANTS

Director of the CDCR FEB 19 2008

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kings
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SOUTHERN DISTRICT OF CALIFORNIA
(IN U.S. PLAINTIFF CASES ONLY) BY RM DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Eric Wilton Burton
PO Box 5246
Corcoran, CA 93212
F-02720

ATTORNEYS (IF KNOWN)

'08 CV 0325 LAB POR

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | PT | DEF | PT | DEF |
|--|--|----------------------------|----------------------------|
| <input type="checkbox"/> 1 Citizen of This State | <input type="checkbox"/> 1 Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 Citizen of Another State | <input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(p)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☒ 5 Transferred from another district (specify) EASTERN CA ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 2/19/2008

SIGNATURE OF ATTORNEY OF RECORD

R. M. Ellis